IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 2ND AUGUST 2007 / 11TH SRAVANA 1929

WP(C).No. 16530 of 2004(P)

OS.604/2001 of ADDL.M.C.,KOZHIKODE-I
.....

PETITIONER:

NANTHANATH PATHU, W/O.SULAIMAN,
KUTTIKATTOOR PERUMANNA AMSOM AND DESOM,
KOZHIKODE TALUK, KOZHIKODE.

BY ADV. SRI.R.SUDHISH
SRI.VINOD SINGH CHERIYAN

RESPONDENT:

K.K.HAMSA, S/O.USMAN KOYA,
KATTILPARAMBA VEEDU, PERUMANNA AMSOM AND DESOM,
KOZHIKODE TALUK, KOZHIKODE.

BY ADV. SRI.A.MOHAMMED

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC : 16530 OF 2004

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 (A) : TRUE COPY OF COMMISSIONER'S REPORT.

EXT.P1(B) : TRUE COPY OF SKETCH.

EXT.P2 : TRUE COPY OF IA 2013/02 IN OS 604/01.

EXT.P3 : TRUE COPY OF ORDER IN IA 2013/02 IN OS 604/01 OF THE MUNSIFF COURT I ADDL. KOZHIKODE.

EXT.P4 : TRUE COPY OF TITLE DEED OF THE PETITIONER.

PIUS C. KURIAKOSE, J.

W.P.(C) No. 16530 OF 2004

Dated this the 2nd day of August, 2007

JUDGMENT

The submissions of Sri.R.Sudhish, learned counsel for the petitioner notwithstanding, I do not find any warrant for invocation of the supervisory jurisdiction of this Court for setting aside Ext.P3 order by which the learned Munsiff dismissed an application filed by the petitioner who is a defendant in a suit for injunction either to set aside or to remit the commissioner's report back to further inspection and further report. I notice in Ext.P3 that the learned Judge in the last paragraph of the said order has observed that the petitioner will have the liberty of making appropriate motion for getting a report by the advocate commissioner on the basis of subsequent inspection, if he wants any new facts to be reported by the commissioner. In the light of that observation, it was not at all necessary for the petitioner to have impugned Ext.P3 in this proceedings. At any rate, there is no warrant to correct Ext.P3 within the contours of this jurisdiction which are narrow. The challenge against Ext.P3 fails. The Writ Petition will stand dismissed.

PIUS C. KURIAKOSE, JUDGE

btt